

REMARKS

I. Summary of Office Action

Claims 1-6, 8-14 and 16-22 were rejected under 35 U.S.C. § 103(a) as being obvious from Pugliese, III et al. U.S. patent publication No. US 2001/0044751 (hereinafter "Pugliese") in view of Messmer et al. U.S. patent publication No. US 2001/0037278 (hereinafter "Messmer") and further in view of Sowinski U.S. patent 6,601,033 (hereinafter "Sowinski").

Claim 22 is objected for an informality regarding a "typographical error, non-English spelling."

II. Summary of Applicants' Reply to Office Action

Claims 1 and 21 have been amended to incorporate the feature of dependent claim 22 (which was originally-filed dependent claim 15 that had previously been indicated as allowable). Dependent claim 22 has been cancelled. Claims 8 and 12-14 have been amended to change the British spelling of the word "organisation" to the American spelling of the word (i.e., "organization"). Claims 1-6, 8-14 and 16-21 have been further amended to advance prosecution of the application. The claims are fully supported and justified by the application as originally filed.

The Office Action's rejections are respectfully traversed.

III. Summary of Telephonic Interview

Examiner Campen, the undersigned and undersigned's colleague Joel Weiss, Reg. No. 44,398, conducted a telephonic interview on November 30, 2005. The undersigned and Mr. Weiss (hereinafter "applicants' representatives") wish to

thank Examiner Campen (hereinafter "the Examiner") for the courtesies extended during the interview.

Details of the substance of the interview appear in more detail in the discussion below where appropriate. Generally, the Examiner and the applicants' representatives discussed whether an amendment to claims 1 and 21 to include the feature of dependent claim 22 would overcome the current rejection. (The feature in claim 22 was originally filed as dependent claim 15 and had previously been indicated as allowable in the May 24, 2004 Office Action.) The Examiner indicated that an amendment to independent claims 1 and 21 to include the feature of dependent claim 22 would likely overcome the current rejection, provided that the other reasons to reject claim 22 in the present Office Action are addressed.

IV. Rejections of the Claims

The Office Action contends that claims 1-6, 8-14 and 16-21 are obvious from Pugliese in view of Messmer and further in view of Sowinski. Applicants respectfully disagree and submit that independent claims 1 and 21 are patentable over Pugliese in view of Messmer and further in view of Sowinski.

Applicants' independent claims 1 and 21 are directed towards an electronic trading simulation that simulates the trading of carbon dioxide equivalent emission reductions. Entities may participate in applicants' simulated trading environment prior to, for example, their entry into an actual trading environment. As amended, applicants' simulated trading environment allows for a receipt of user input to generate internal reductions in

connection with an organization selected to participate in the electronic trading simulation.

The feature regarding "allowing a user to generate internal reductions . . ." was previously pending in dependent claim 22. The feature was originally filed as dependent claim 15 and had previously been indicated as allowable in the May 24, 2004 Office Action. Applicants' August 25, 2004 Reply to Office Action amended the originally-filed independent claims 1 and 21 to incorporate the feature of originally filed dependent claim 15 in anticipation of the application proceeding to allowance. The November 30, 2004 Office Action withdrew the indication of allowability and provided objections to the features of the dependent claim put in independent form. Applicants' March 30, 2005 Reply to Office Action amended claims 1 and 21 to restore the claim language as originally-filed and added claim 22 to restore originally-filed dependent claim 15. Applicants' March 30, 2005 Reply to Office Action argued the patentability of these claims, which were subsequently rejected in the present Office Action on the same grounds. As indicated above from the interview summary, the Examiner indicated that an amendment to independent claims 1 and 21 reincorporating the feature of dependent claim 22 would likely overcome the current rejection, provided that the other reasons to reject dependent claim 22 in the present Office Action are addressed.

The present Office Action rejected previously pending dependent claim 22 on the grounds that ". . . terminology such as 'allowing' or 'allows' only requires the system or apparatus to be 'capable' of performing the steps, not necessarily that such steps are

actually performed, it is not a positive claim limitation" (Office Action, page 7). Applicants respectfully disagree. However, in order to advance prosecution of the application, applicants have amended each instance of "allowing" or "allow," that appear in the claims, to recite what the Office Action refers to as a "positive claim limitation." These amended claims are fully supported and justified by the application as originally filed.

The Office Action further contended that the feature of previously pending claim 22 ". . . is considered to be merely non-functional descriptive language and are not functionally involved in the steps recited. This type of information is merely descriptive and will not distinguish the claimed invention from the prior [art] in terms of patentability" (Office Action, page 7). Applicants respectfully disagree. Among other things, applicants' claims require using an electronic trading application for a trading simulation of carbon dioxide equivalent emission reductions. The simulation is conducted to facilitate a user's future participation in an actual event. For example, as set forth in applicants' specification:

[E]ntities such as countries, corporations, or non-profit [organizations] may desire to simulate their participation prior to entry [into an actual trading environment] to gain a deeper understanding of the market. Such entities may, for example, need to understand their emission profiles, assess their potential obligations and associated liabilities, and learn to trade CO₂e emissions reductions. (Applicants' specification, paragraph [0004].)

Part of an entity's "emission profile" may be the entity's internal reductions. As described in applicants' specification, "[i]nternal reductions are reductions in CO₂e

emissions that are made within an [organization]" (applicants' specification, paragraph [0096]). Thus, a simulation that specifically includes internal reductions is functional because it enables entities to simulate a further aspect of their "emission profile" to better understand their future participation in an actual trading environment. Moreover, applicants' amendment includes the feature of "receiving [a] user input to generate internal reductions . . ." clearly showing a functional involvement in independent claim 1 and 21. For at least the foregoing reasons, applicants respectfully request that the rejections, with respect to previously pending dependent claim 22, be withdrawn.

Applicants also incorporate the remarks of the March 30, 2005 Reply to Office Action for further illustration of the patentability of applicants' claims. In addition, applicants wish to reiterate and expand upon the remarks regarding the lack of motivation to combine Pugliese with Sowinski. The Office Action contended that "it would have been obvious to combine the 'goods' (i.e., carbon monoxide reductions) of the Sowinski patent with the 'goods' of the Pugliese patent so as to reach an expansive audience yet provide a reasonable means of trading reductions" (Office Action, page 3). Applicants respectfully disagree. In particular, applicants submit that the Pugliese system would not be a "reasonable means of trading" the pollution credits of Sowinski.

The shopping environment of Pugliese is inappropriate for the establishment of pollution credits disclosed in Sowinski. "Goods" such as those found in shopping malls and disclosed in Pugliese -- i.e., those that

require photographs so that a shopper can see them online -- are not interchangeable with the "pollution credits" of Sowinski. Trading pollution credits involve trading a product that is dissimilar to these "goods." For an industrial user, viewing a "physical" pollution credit is not a relevant need like viewing a "good" is for an ordinary consumer. In fact, when trading pollution credits, these items are unlikely to be viewed. Therefore, one of ordinary skill in the art at the time of the Sowinski invention is unlikely to be motivated to look to Pugliese. Another reason one would not be motivated to combine these references is that the pollution credits of Sowinski involve a complicated regulatory scheme that is unnecessary and therefore not present in the online shopping environment of Pugliese. The Office Action has also failed to provide support as to how such a combination would provide a "reasonable means of trading" the pollution credits of Sowinski.

In addition, the use of Pugliese to reject applicants' claims is inappropriate because it is not analogous to the field of an electronic trading simulation of carbon dioxide equivalent emissions reductions. Applicants submit that "[i]n order to rely on a references as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned" (In Re Oetiker, 977 F.2d 1443, 1446, 24 UPSQ2d 1443, 1445 (Fed. Cir. 1992)). As referenced above, Pugliese makes no mention of electronic trading simulation of carbon dioxide equivalent emissions reductions. Therefore, the Pugliese reference is not in the field of applicants' endeavor. Additionally, Pugliese is not

reasonably pertinent to the problems associated with the electronic trading simulation of carbon dioxide equivalent emissions reductions. Applicants therefore submit that the prior art reference of Pugliese relied on to reject applicants' claims is not analogous to the applicants' invention and, for at least this reason, cannot sustain a rejection under 35 U.S.C § 103.

Applicants submit that for at least the foregoing reasons, independent claims 1 and 21 are allowable over the prior art of record.

V. Conclusion

The foregoing demonstrates that claims 1-6, 8-14, and 16-21 are patentable. This application is therefore in condition for allowance. Reconsideration and prompt allowance are accordingly respectfully requested.

Respectfully submitted,



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